IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

FAO(MVA) No. 227 of 2000 and

Cross-objection No. 323 of 2000.

Decided on : 10.11.2006.

---

1. **FAO(MVA) No. 227 of 2000.**
Himachal Road Transport Corporation & anr. .....Appellants.

VERSUS

Bholi Devi & ors. .....Respondents.

2. **Cross-objection No. 323 of 2000.**

Himachal Road Transport Corporation & anr. .... Appellants- non-objectors.

VERSUS

Bholi Devi & ors. ..... Respondents-objectors.

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?[1]

For the Appellant : None for the appellant/ Non-objector.

For the Respondents : Mr. Raman Sethi, Advocate, for respondent No.1/ objector.
Ms. Archana Dutt, Advocate, for respondents No. 2 and 3.

Surjit Singh, Judge (Oral).

This appeal was filed by Himachal Road Transport Corporation, against whom an award for payment of Rs. 1,15,200/- by way of compensation to respondent Bholi Devi has been passed. The grievance of the appellant is that the evidence on record does not establish that the accident took place due to rash or negligent

---

Whether the reporters of the local papers may be allowed to see the Judgment?

driving of the vehicle, i.e. its bus and that the compensation awarded by the Tribunal is also on the higher side.

CMP(M) No. 234 of 2006.

2. Cross objections have also been filed. Cross-objections were filed within time. But at the time when the same were filed, the view was that cross-objections are not maintainable. Later on, in view of the judgement of a Full Bench of this Court in FAO No. 267 of 1993, Miss Lata Vs. United India Insurance Company, decided on 27.10.2004, rules were amended by the State Government, whereby filing of the cross-objections has been made permissible. Since the rules have been amended much after the filing of the cross-objections, which initially were not maintainable, an application, being CMP(M) No. 234 of 2006, has been moved, under Section 5 of the Limitation Act, for condonation of delay in filing the objections and for treating the objections, originally filed, as cross-objections proper after condoning the delay.

3. In view of the above stated position, prayer for condonation of the delay is allowed and cross-objections are ordered to be taken on the record and heard on merits.

FAO(MVA) No. 227 of 2000, Cross-objections No. 323 of 2000 & CMP(M) No.234 of 2006

4. Nobody appears for the appellant/ non-objector. I have perused the record. The record, particularly the statements of respondent No.1, who appeared as PW 1, and PW 3 Chuhru Ram, who was a co-passenger with respondent No.1, proves that the accident took place because of rash or negligent driving of the bus. Suggestion put to respondent No.1 in the cross-examination that she

fell from the moving bus, when one of its windows got opened itself is suggestive of the fact that the accident took place because of negligence on the part of the driver or the conductor. Therefore, the finding of the learned Tribunal that the cause of accident was rash or negligent act on the part of the employees of the appellant, calls for no interference.

5. As regards the quantum of compensation, the evidence on record shows that the injuries sustained by respondent No.1 Miss Bholi Devi, in the accident have resulted in 40% permanent disability and shortening of left lower limb and restriction of movement of left hip. Now when the injuries have resulted in permanent disability to the extent of 40% and also shortening of the leg and the injured was a young girl of 15 or 16 years of age when the accident took place, the quantum of compensation awarded by the Tribunal, i.e. Rs. 1,15,200/- on the face of it appears to be grossly on the lower side. The objector- respondent No.1 deserves to be awarded compensation amounting to Rs.2,40,000/- as per following detail:-

1. Medical treatment, special diet and Expenses of attendant = Rs. 20,000/-
2. Pain & sufferings and loss of amenities of life = Rs. 1,00,000/-
3. Future loss of earnings = Rs. 1,00,000/-
4. Adverse effect on matrimonial Prospects = Rs. 20,000/-

6. No other point has been urged.

7. In view of above stated position, appeal filed by the appellant- Himachal Road Transport Corporation, is dismissed. The

cross-objections filed by respondent No.1, are allowed and she is awarded an additional sum of Rs. 1,24,800/-, and it is ordered that the amount of compensation be paid to respondent No.1 together with interest at the rate of 9% per annum from the date of the petition to the date of deposit of the amount in this Court.

November 10, 2006. **(Surjit Singh)**
(*Hem*) **Judge.**